

REMARKS/ARGUMENTS

1.) Claim Amendments

The Applicant has amended claim 23. Claim 22 has been canceled. Accordingly, claims 16-21, 23, and 24 are pending in the application. Favorable reconsideration of the application is respectfully requested in view of the foregoing amendments and the following remarks.

2.) Allowable Subject Matter

The Applicant gratefully acknowledges the allowance of claims 16-20.

3.) Claim Rejections – 35 U.S.C. § 102(e)

In paragraphs 1-2 of the Office Action, the Examiner rejected claim 22 under 35 U.S.C. § 102(e) as being anticipated by Wang, et al. (US 6,230,024). The Applicant has canceled claim 22 and incorporated its limitations into claim 23.

4.) Claim Rejections – 35 U.S.C. § 103(a)

In paragraphs 3-4 of the Office Action, the Examiner rejected claims 21, 23 and 24 under 35 U.S.C. § 103(a) as being unpatentable over Wang in view of Sicher, et al. (US 6,385,195). However, under 35 U.S.C. 103(c), Sicher is disqualified as prior art because Sicher and the claimed invention were commonly owned at the time the invention was made. More specifically, MPEP 706.02(I)(1) states:

Effective November 29, 1999, subject matter which was prior art under former 35 U.S.C. 103 via 35 U.S.C. 102(e) is now disqualified as prior art against the claimed invention if that subject matter and the claimed invention "were at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person." This change to 35 U.S.C. 103(c) applies to all utility, design, and plant patent applications filed on or after November 29, 1999, including continuing applications filed under 37 CFR 1.53(b), continued prosecution applications filed under 37 CFR 1.53(d), and reissues.

The instant application was filed on June 7, 2000, which is after November 29, 1999. Applicant respectfully notes that the instant application as well as Sicher were, at the time the invention was made, all owned by the same entity – Telefonaktiebolaget LM Ericsson. The ownership information is indicated on the face of Sicher, and is shown for the instant application in an assignment recorded with the U.S. Patent and Trademark Office on April 25, 2001, at reel 011759, frame 0719.

As a result, all of the requirements of 35 U.S.C. § 103(c) have been met, and Sicher is disqualified as a prior art reference in the instant application. Therefore, Applicant respectfully requests the withdrawal of the rejection under § 103.

Claim 23 has been rewritten in independent form to include the limitations of canceled base claim 22. Therefore, the allowance of claims 21, 23, and 24 is respectfully requested.

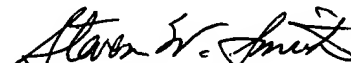
CONCLUSION

In view of the foregoing remarks, the Applicant believes all of the claims currently pending in the Application to be in a condition for allowance. The Applicant, therefore, respectfully requests that the Examiner withdraw all rejections and issue a Notice of Allowance for claims 16-21, 23, and 24.

The Applicant requests a telephonic interview if the Examiner has any questions or requires any additional information that would further or expedite the prosecution of the Application.

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Respectfully submitted,



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